

**FEDERAL DISTRICT COURT OF WASHINGTON
WESTERN DISTRICT AT TACOMA**

ADRIAN DAMON SIMS, an individual,

Plaintiff,

vs.

CITY OF LAKEWOOD, WASHINGTON,
a political subdivision of the state of
Washington, OFFICER JAMES SYLER, a
City of Lakewood Police Officer and DOES 1
through 5, inclusive,

Defendants.

No.

**COMPLAINT FOR
VIOLATION OF CIVIL
RIGHTS, NEGLIGENCE,
ASSAULT AND BATTERY,
STRICT LIABILITY**

JURY DEMANDED

COMES NOW Plaintiff, Adrian Damon Sims, by and through his attorney, Stephen J. Plowman, and states the following facts and claims against the named Defendants:

I. PARTIES AND JURISDICTION

1.1 Adrian Damon Sims (“Sims”), was at all relevant times, a married person but separated from his spouse, residing in Pierce County, Washington. Sims brings this action in his separate capacity and not for or on behalf of his marital community.

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1.2 Defendant, City of Lakewood, Washington, is a political subdivision of the state of Washington that controls, operates and staffs the Lakewood Police Department located at 9401 Lakewood Dr. SW, Lakewood, Washington 98499. All actions on the part of the individual Police Officer and K9 Unit “ROCK” constitute state actions for purposes of Civil Rights Violations as described hereafter.

1.3 During all relevant times alleged hereafter, Defendant, City of Lakewood or Lakewood Police Department employed, trained and supervised Officer James Syler and K9 Partner Rock.

1.4 Pierce County Sheriff Deputies Ara Steben (“Steben”) and Lee Pritchard (“Pritchard”) are not named defendants but were Deputies employed by the County of Pierce and were present at the time of the arrest of Adrian Sims on or about October 12, 2017 and at all relevant times mentioned hereafter.

1.5 Officer James Syler (“Syler”), was at all relevant times, an employee of the City of Lakewood Police Department working with ROCK his K9 partner. Both Officer James Syler and K9 Rock were acting in their capacities as law enforcement officers and agents of the City of Lakewood at the relevant times mentioned in this Complaint.

1.6 Does I through V are individuals who identities are not known at the time of filing of the Complaint who may bear liability with respect to Plaintiff’s claims as alleged hereafter.

1.7 Subject matter jurisdiction is appropriate in the federal courts premised upon the civil rights violations being asserted under 42 U.S.C. §1983.

II. BACKGROUND

1 2.1 This matter arises out of an encounter with the Lakewood Police Department and
2 Sims on or about October 12, 2017 during the arrest and apprehension of Sims at 133rd Court
3 Street East, Bonney Lake, WA 98391 by the named individual Lakewood Police Department
4 Officer, James Syler and Pierce County Deputies Steben and Pritchard.

5 2.2 On or about October 12, 2017, the Pierce County Sheriff's Office, through
6 Deputies and Pritchard, responded to a complaint made by Kathleen Sims at a residence located
7 at 133rd Court Street East, Bonney Lake, Washington 98391 alleging that Sims was present at
8 the house in violation of a Pierce County Superior Court Order dated June 23, 2017 under Cause
9 No. 17-1-01560-3.

10 2.3 Deputies Steben and Pritchard determined the Sims was hiding in a small crawl
11 space at the residence 133rd Court Street East, Bonney Lake, WA 98391 from information
12 provided by the complaining witness, Kathleen Sims. The responding Deputies requested K9
13 assistance and Officer Syler and K9 Rock of the Lakewood Police Department responded to the
14 Kathleen Sims residence to assist in the apprehension of Sims.

15 2.4 At the entrance of the crawl space, Officer Syler called for Sims to voluntarily
16 surrender and if Sims failed to surrender he would lower the K9 Rock into the crawl space.
17 Officer Syler alleges that he heard no response.

18 2.5 Sim, had, in fact, positioned himself in the crawl space behind some ducting.

19 2.6 Upon seeing Officer Syler begin to lower Rock into the crawl space, Sims called
20 out that he would surrender. Officer Syler continued to lower Rock into the crawl space at which
21 point Rock immediately located Sims and began biting Sims around the neck and shoulder.
22

23 2.7 Sims managed to grab Rock by the muzzle and pin Rock to the ground in order to
24 stop the attack. Officer Syler entered the crawl space followed by Deputy Steben. At this point
25

1 Sims engaged Officer Syler and committed to submit to arrest and release Rock with no further
2 incident if Office Syler would pull Rock back immediately and stop the K9 attack.

3 2.8 Officer Syler agreed. Sims released his hold on the snout of Rock and let Rock
4 free. Officer Syler immediately pulled the leash and restrained Rock. Sims immediately
5 submitted to arrest and Deputy Steben placed handcuffs on Sims pinning Sim's arms and hands
6 behind Sims.

7 2.9 After Sims was handcuffed, he was again attacked by Rock who inflicted serious
8 bite wounds to Sim's arms, leg, torso, neck and stomach.

10 **III. FIRST CAUSE OF ACTION**

11 (42 U.S.C. §1983 Violations Against City of Lakewood and Officer Syler)

12 3.1 Plaintiff incorporates all prior allegation into this First Cause of Action.

13 3.2 In accordance with 42. U.S.C. §1983, Plaintiff asserts causes of actions premised
14 upon the violations of Sim's rights under the Fourth and Fourteenth Amendments not to be
15 deprived of life, liberty, or property with the due process of law. With regard to Officer Syler,
16 Plaintiff maintains the usage of excessive force with regard to the unnecessary release of the
17 Police Dog after Sims was hand cuffed and had surrendered to police. Sims communicated his
18 surrender to Officer Syler and Deputy Steben, submitted to restraint by way of handcuffs. Each
19 of the dog bites and attacks, individually and collectively, constituted the use of excessive and
20 unnecessary force.
21

22 3.3 With regard to City of Lakewood's Police Department, Plaintiff asserts a pattern
23 and practice of the same or similar civil rights violations perpetrated by officers or deputies
24 within the City of Lakewood and ratified by supervising officers.
25

1 Syler's direction to release Rock, submitted to handcuff restraints and demonstrating his lack of
2 weapons and desire to surrender.

3 4.3 Officer Syler breached his duty to protect Plaintiff from excessive and
4 unreasonable force and harm from Rock by allowing Rock to advance upon and attack Sims after
5 Sims had been effectively captured and after he was handcuffed.

6 4.4 Plaintiff suffered damages and harm to his person and body as a proximate and
7 direct result of Defendants' negligence in the form of severed dog bite injuries to Plaintiff's body
8 together with permanent scarring ongoing pain and suffering.

9 4.5 Plaintiff suffered physical, emotional and financial harm as a direct and proximate
10 result of the Officer's conduct on or after October 12, 2017 in an amount to proven hereafter at
11 Trial in an amount not less than \$1,200,000.00.
12

13 14 **V. THIRD CAUSE OF ACTION**

15 (Negligence as to City of Lakewood Police Department for lack of Supervision, Training
16 and Oversight)

17 5.1 Plaintiff references all prior allegations as though fully set forth in this Third
18 Cause of Action.

19 5.2 In its capacity as a political subdivision of the state of Washington, City of
20 Lakewood through its Police Department, owed a duty to Plaintiff to supervise the conduct of its
21 deputies regarding excessive and unwarranted force and provide proper training to its officers
22 and especially the K9 unit, Rock. City of Lakewood owed a duty to Plaintiff to provide clear
23 policy guidelines to restrain a police dog once a suspect clearly manifests his or her willingness
24

1 to surrender and demonstrates compliance, lack of weapons and willingness to surrender without
2 violence or is otherwise restrained.

3 5.3 The City of Lakewood breached its duty to protect Plaintiff from excessive and
4 unreasonable force and harm from Defendant, Officer Syler and K9 Patrol Dog, Rock by failing
5 to supervise, oversee and train City of Lakewood police officers, dog handlers and K9 support
6 animals.

7 5.4 Plaintiff suffered damages and harm to his person and body as proximate and
8 direct result of City of Lakewood's negligence in the form of personal injuries suffered Plaintiff,
9 permanent scarring and pain and suffering resulting from the dog bites inflicted by Rock.

10 5.5 Plaintiff suffered physical, emotional and financial damages as a direct and
11 proximate result of City of Lakewood's failure to supervise and train its police officer's conduct
12 on or about October 132, 2017 in an amount not less than \$1,200,000.00 to proven hereafter at
13 Trial.
14

15 16 **VI. FOURTH CAUSE OF ACTION**

17 (Assault and Battery as to all Defendants)

18 6.1 Plaintiff references all prior allegations as though fully set forth in this Fourth
19 Cause of Action.

20 6.2 The actions alleged above by Officer Syler constitute assault by threatening to use
21 illegal excessive and potentially lethal force by unleashing Rock under circumstances that did
22 not warrant the use of any force whatsoever.

23 6.3 Officer Syler committed battery by causing Rock his K9 partner as his agent and
24 weapon, to commit harmful and offensive touching of Sims.
25

6.4 As a direct and proximate result of Defendants' assault and battery, Plaintiff suffered physical, emotional and financial damages on or after October 12, 2017 in an amount to be proven hereafter at Trial in an amount not less than \$1,200,000.00.

FIFTH CAUSE OF ACTION

(Strict Liability as to All Defendants under RCW 16.08.040 and RCW 4.24.410 carve out)

7.1 Plaintiff references all prior allegations as though fully set forth in this Fifth Cause of Action.

7.2 Defendants' actions as alleged above by Officer Syler constitute assault, battery or violations of Plaintiff's rights under 42 U.S.C. §1983 by the use of illegal, excessive and lethal force by unleashing Rock under circumstances that did not warrant the use of any force whatsoever.

7.3 Pursuant to RCW 16.08.040, City of Lakewood Police Department and Officer Syler are strictly liable for injuries sustained by Plaintiff as a result of being bitten by K-9 Rock utilized during and after Plaintiff's arrest.

7.4 Defendants, and each of them, may not invoke immunity afforded by RCW 4.24.410 by reason that Officer Syler was not acting "in good faith" when he negligently or intentionally loosened or failed to restrain Rock after Sims was restrained in handcuffs and clearly communicated his surrender to Officer Syler.

7.5 As a direct and proximate result of Lakewood Police Department and Officer Syler's failure to restrain Rock after Sims surrendered, Plaintiff suffered physical, emotional and financial damages on and after October 12, 2017 in an amount not less than \$1,200,000.00 to proven hereafter at Trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, having set forth his causes of action herein against Defendants, prays for judgment against Defendants as follows:

1. For a judgment, jointly and severally amongst all Defendants for their violation of Plaintiff's Civil Rights under 42 U.S.C. §1983, for general and special and punitive damages in amounts as shall be proven at trial;

2. For a judgment, jointly and severally amongst Defendants City of Lakewood, and Officer Syler by reason of their negligence and breach of duty with respect to Plaintiff, for general and special damages proximately resulting from Defendant's negligence in amounts as shall be proven at trial, but not less than \$1,200,000.00;

3. For a judgment against City of Lakewood by reason of its failure to supervise, oversee and train its officers and K9 handlers and breach of duty with respect to Plaintiff, for general and special damages proximately resulting from Defendant's negligence in amounts as shall be proven at trial, but not less than 1,200,000.00;

4. For a judgment, joint and several, against all Defendants for damages sustained by Plaintiff by reason of Defendants' assault and battery, for general and special damages proximately resulting from Defendant's assault and battery in amounts as shall be proven at trial, but not less than \$1,200,000.00;

5. For a judgment, jointly and severally amongst all Defendants through strict liability under RCW 16.08.040 and RCW 4.24.410 in amounts as shall be proven at trial, but not less than \$1,200,000.00;

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